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HOUSE BILL 1099

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Elias Barela

AN ACT

RELATING TO ELECTIONS; ALLOWING WRITE-IN CANDIDATES IN CERTAIN
PRIMARY AND GENERAL ELECTIONS WITHOUT THE REQUIREMENT OF
DECLARING AN INTENT TO BE A WRITE-IN CANDIDATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-8-36.1 NMSA 1978 (being Laws 1981,
Chapter 156, Section 1, as amended) is amended to read:

"1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

A. Write-in candidates are permitted in the primary
election only for the offices of United States representative,
members of the legislature, district judges, district
attorneys, public regulation commission, [~~state board of
education~~] public education commission, magistrates and any
office voted upon by all voters of the state.

B. A person may be a write-in candidate only for

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1 nomination by the major political party with which ~~[he]~~ the
2 person is affiliated as shown by ~~[his]~~ the certificate of
3 registration, and such person shall have the qualifications to
4 be a candidate in the primary election for the political party
5 for which ~~[he]~~ the person is a write-in candidate.

6 ~~[G. A person desiring to be a write-in candidate~~
7 ~~for one of the offices listed in Subsection A of this section~~
8 ~~in the primary election shall file with the proper filing~~
9 ~~officer a declaration of intent to be a write-in candidate.~~
10 ~~Such declaration of intent shall be filed before 5:00 p.m. on~~
11 ~~the second Tuesday in March.]~~

12 C. All ballots shall provide a space for the voter
13 to write in the name of any person for whom the voter wants to
14 cast a vote for that office.

15 D. A write-in vote shall be counted and canvassed
16 only if

17 ~~[(1) the name written in is the name of a~~
18 ~~declared write-in candidate and shows two initials and last~~
19 ~~name; first name, middle initial or name and last name; first~~
20 ~~and last name; or the full name as it appears on the~~
21 ~~declaration of intent to be a write-in candidate and~~
22 ~~misspellings of the above combinations that can be reasonably~~
23 ~~determined by a majority of the members of the precinct board~~
24 ~~to identify a declared write-in candidate; and~~

25 ~~(2)] the name is written in the proper slot on~~

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1 the voting machine or on the proper line provided on an
2 absentee ballot or emergency paper ballot for write-in votes
3 for the office for which the candidate has filed a declaration
4 of intent.

5 ~~[E. At the time of filing the declaration of intent~~
6 ~~to be a write-in candidate, the write-in candidate shall be~~
7 ~~considered a candidate for all purposes and provisions relating~~
8 ~~to candidates in the Election Code, including the obligations~~
9 ~~to report pursuant to the Campaign Reporting Act, except that~~
10 ~~he shall not be entitled to have his name printed on the~~
11 ~~ballot.~~

12 ~~F. No unopposed write-in candidate shall have his~~
13 ~~nomination certified unless he receives at least the number of~~
14 ~~write-in votes in the primary election as he would need~~
15 ~~signatures on a nominating petition pursuant to the~~
16 ~~requirements set out in Section 1-8-33 NMSA 1978.~~

17 ~~G.]~~ E. A write-in vote shall be cast by writing in
18 the name. As used in this section, "write-in" does not include
19 the imprinting of any name by rubber stamp or similar device or
20 the use of preprinted stickers or labels."

21 Section 2. Section 1-11-2 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 212, as amended) is amended to read:

23 "1-11-2. CONTENTS OF PROCLAMATION.--The proclamation
24 shall:

25 A. give notice of the election;

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1 B. set forth the purpose of the election;

2 C. list the offices to be filled;

3 D. list all properly certified candidates for each
4 of the offices to be filled;

5 ~~[E. list the declared write-in candidate's name and~~
6 ~~party affiliation;~~

7 ~~F.]~~ E. list the names of all precinct board members
8 and the precinct to which they are appointed; and

9 ~~[G.]~~ F. give the address or location of the polling
10 place in each precinct where the election is to be held."

11 Section 3. Section 1-12-19.1 NMSA 1978 (being Laws 1981,
12 Chapter 156, Section 2, as amended) is amended to read:

13 "1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--WRITE-
14 IN CANDIDATES.--

15 ~~[A. A person desiring to be a write-in candidate in~~
16 ~~a special election for United States representative or a~~
17 ~~statewide special election shall file with the proper filing~~
18 ~~officer a declaration of intent to be a write-in candidate.~~

19 ~~The declaration of intent shall be filed between 9:00 a.m. and~~
20 ~~5:00 p.m. on the sixty-third day immediately preceding the~~
21 ~~election. A person desiring to be a write-in candidate in a~~
22 ~~general election shall file the declaration of intent between~~
23 ~~9:00 a.m. and 5:00 p.m. on the day after the primary election.~~

24 B. ~~The form of the declaration of intent shall be~~
25 ~~prescribed by the secretary of state and shall contain a sworn~~

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1 ~~statement by the candidate that the candidate is qualified to~~
2 ~~be a candidate for and to hold the office for which the~~
3 ~~candidate is filing.~~

4 ~~G. At the time of filing the declaration of intent~~
5 ~~to be a write-in candidate, the write-in candidate shall be~~
6 ~~considered a candidate for all purposes and provisions relating~~
7 ~~to candidates in the Election Code, including the obligation to~~
8 ~~report under the Campaign Reporting Act, except that the~~
9 ~~candidate shall not be entitled to have the candidate's name~~
10 ~~printed on the ballot.~~

11 ~~D. The secretary of state shall, not less than ten~~
12 ~~days before the general election, certify the names of the~~
13 ~~declared write-in candidates to the county clerks of every~~
14 ~~county affected by such candidacy.~~

15 ~~E. No person shall be a write-in candidate in the~~
16 ~~general election who was a candidate in the primary election~~
17 ~~immediately prior to the general election.]~~

18 A. All ballots shall provide a space for the voter
19 to write in the name of any person for whom the voter wants to
20 cast a vote for that office.

21 ~~[F.]~~ B. A vote for a write-in candidate shall be
22 counted and canvassed only if

23 ~~[(1) the name written in is the name of a~~
24 ~~declared write-in candidate and shows two initials and last~~
25 ~~name; first name, middle initial or name and last name; first~~

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1 and last name; or the full name as it appears on the
2 declaration of intent to be a write-in candidate and
3 misspellings of the above combinations that can be reasonably
4 determined by a majority of the members of the precinct board
5 to identify a declared write-in candidate; and

6 (2) the name is written in the proper office
7 or entered upon the keyboard on the voting machine or on the
8 proper line provided on a marksense ballot, absentee ballot or
9 emergency paper ballot for write-in votes for the office for
10 which the candidate has filed a declaration of intent.

11 [G. ~~No unopposed write-in candidate shall have an~~
12 ~~election certified unless the candidate receives at least the~~
13 ~~number of write-in votes as the candidate would need signatures~~
14 ~~on a nominating petition pursuant to the requirements in~~
15 ~~Section 1-8-33 NMSA 1978.~~]

16 [H.] C. A write-in vote shall be cast by writing in
17 the name. As used in this section, "write-in" does not include
18 the imprinting of any name by rubber stamp or similar device or
19 the use of preprinted stickers or labels."